Supreme Court, U.S.
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No. 79-870

In the

Supreme Court of the United States

OCTOBER TERM, 1979

UNITED STATES RAILROAD RETIREMENT BOARD,

Appellant,

vs.

GERHARD H. FRITZ, on his own behalf and on behalf of all those similarly situated,

Appellee.

On Appeal from the United States District Court for the Southern District of Indiana.

RESPONSE IN OPPOSITION TO MOTION OF THE NATIONAL RAILWAY LABOR CONFERENCE TO FILE BRIEF AS AMICUS CURIAE IN SUPPORT OF THE JURISDICTIONAL STATEMENT

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The appellee opposes the National Railway Labor Conference's motion for leave to file brief as *amicus curiae* for the following reasons:

1. The National Railway Labor Conference's motion does not satisfy the requirements of Rule 42(1) of the Supreme Court of the United States since that motion

is untimely. The National Railway Labor Conference's motion was received by the appellee only three business days before appellee's response to the appellant's Jurisdictional Statement was due and after appellee's brief had been submitted to the printer, thereby precluding appellee from responding to the *amicus* brief if leave of Court were granted for its filing.

2. The National Railway Labor Conference's motion does not satisfy the requirements of Rule 42(3) of the Supreme Court of the United States since the motion does not show what facts or questions of law have not been adequately presented by the appellant in the appellant's Jurisdictional Statement.

3. The National Railway Labor Conference's brief is, furthermore, a redundancy which, in general, does no more than restate the points raised in the appellant's Jurisdictional Statement, and contains errors of law and fact.

4. The filing of the *amicus* brief creates the possibility of unwarranted delay in this Court's resolution of the appeal. The district court below granted the appellant a stay of its judgment on the condition that the appeal be progressed expeditiously so as to minimize the injury presently being suffered by appellant's class during the time of the stay.

For the reasons above stated, the appellee requests the Court to deny the National Railway Labor Conference's motion for leave to file brief *amicus curiae* in support of the Jurisdictional Statement.

Respectfully submitted,

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